

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

CrI.MC.No. 2948 of 2007()

ST.1065/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR
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PETITIONER: ACCUSED

J.NISHA, PROPRIETRIX, AGED 35 YEARS,
M/S.MEDIZONE, PALARIVATTOM, KOCHI.

BY ADV. SRI.R.ARUN RAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 24/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2948 of 2007

Dated this the 24th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. The petitioner had appeared before the learned Magistrate and was once enlarged on bail, it is submitted. But when the case was posted to 10/7/2007, the petitioner could not appear on account of illness. She had entrusted the counsel to file an application to excuse her absence. Her counsel did not reach the court in time. Hence a warrant of arrest was issued by the learned Magistrate against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing her.

2. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. Her failure to appear on 10/7/2007 was on account of reasons beyond her control. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But she apprehends that her application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. She, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when she appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances

under which she could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

5. In the peculiar facts and circumstances of this case, there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 03/10/2007.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007